

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1066 of 1995

in

SPECIAL CIVIL APPLICATION NO 8801 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

on'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

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2. To be referred to the Reporter or not? No.

3. Whether Their Lordships wish to see the fair copy
of the judgement? No.

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

MAGANBHAI KARSANBHAI SINCE DECEASED

Versus

STATE OF GUJARAT

Appearance:

Mr. P.J.Vyas for Appellants-Petitioners

CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE S.D.PANDIT

Date of decision: 24/06/97

ORAL JUDGEMENT (Per:Thakker.J)

This Letters Patent Appeal is directed against an order passed by the learned single Judge dismissing the Special Civil Application No. 8801/95 on October 12, 1995.

2. The appellants are the original petitioners who are the heirs and legal representatives of deceased Maganbhai Karsanbhai. Maganbhai was granted land by City Deputy Collector on June 26, 1959 on certain terms and conditions mentioned in that order. Necessary entry at Sr.No. 562 was made to that effect on July 7, 1959. The land in question was bearing survey number 223 admeasuring 3 acres and 11 gunthas. It was granted on eksali (yearly) basis. It appears that deceased Maganbhai made an application to re-grant the land on permanent basis. However, the District Collector, Ahmedabad vide order dated May 31, 1975 (Annexure-B) rejected the said request as the said land was required for the purpose of construction of quarters for Government employees. It was also observed that the land was cultivated by the deceased Maganbhai.

3. It is asserted by the appellants-petitioners in the petition that the order was passed by the Collector without issuing notice, calling for explanation and affording opportunity of hearing. It is also contended that the order dated May 31, 1975 was never served upon deceased Maganbhai Karsanbhai. It is averred that an application was made for getting certified copy of the order but the copy of the order was never supplied. Hence the appellants-petitioners were constrained to approach this Court by filing Special Civil Application. The learned single Judge observed that there was delay of about 20 years in approaching the court and on that ground, the petition did not require to be entertained.

4. We have heard Mr. Vyas learned counsel for the appellant. On the facts of the case it clearly appears that there is gross and inordinate delay on the part of the appellants in approaching this court. It is, no doubt, stated in the petition that certified copy of the order was applied but copy was not given to the appellants or to deceased Maganbhai Karsanbhai but no such application is produced on record. Even the date of the application is not mentioned. Thus when such an application was made is not clear from the record. In these circumstances,, in our opinion the learned single Judge has not committed any error of law in rejecting the petition on the ground of delay.

5. As observed by the Collector in the impugned order the land was required for the purpose of construction of residential quarters of Government employees. Regarding alternative land, it is for the authority to consider such request and to take appropriate decision . The order passed by the learned single Judge or by us will not come in the way of the authorities. But there is no substance in the appeal and it is dismissed. Notice discharged. No order as to costs.

(C.K.Thakker.J)

(S.D.Pandit.J)